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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,131	03/31/2004	Xiuzhang James Zhang	839-1546	3717
30024 7590 05/20/2009 NIXON & VANDERHYE P.C. 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
VERDIER, CHRISTOPHER M				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte XIUZHANG JAMES ZHANG,
MARK GERARD DUER and
DOLE CLYDE LEWIS

Application 10/813,131
Technology Center 3700

Mailed: May 20, 2009

Before VASCO S. HARPER, *Paralegal Specialist*.
HARPER, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on May 16, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

In the Examiner's Answer mailed September 13, 2007 the Examiner has chosen to refer to the prior Office Action mailed on April 14, 2006 for an explanation of the rejected claims in the section "(9) Grounds of Rejection." In this respect, the examiner is directed to the Manual Of Patent Examining Procedure (MPEP) 1207.02 (8th ed., Rev. 7, 2008) which states in part:

If there is a complete and thorough development of the issues at the time of final rejection, it is possible to save time in preparing the examiner's answer required by 37 CFR 41.39 by copying a rejection from a prior Office action and then pasting the copied rejection into the answer.

As per the above, it is no longer permissible to incorporate a prior Office action into an examiner's answer, simply by reference to the action alone. The action (or parts thereof) must be physically inserted into the answer. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner

- a.) to vacate the Examiner's Answer mailed September 13, 2007, and issue a substitute Examiner's Answer that includes a complete copy of the prior Office action referenced in the Answer, and
- b.) for such further action as may be appropriate.

Application 10/813,131

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797

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